

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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GABRIELLE DOUYON,

Plaintiff,

-against-

ORDER  
10-cv-3983(SJF)(AKT)

NY MEDICAL HEALTH CARE, P.C.,  
SY SCHNEIDER, DAVID GOLYAN,  
NATHAN "DOE", and FARAIDOOON DANIEL  
GOLYAN, M.D.,

Defendants.

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FEUERSTEIN, J.

On August 31, 2010, plaintiff Gabrielle Douyon ("plaintiff") commenced this action against defendants NY Medical Health Care, P.C., Sy Schneider, David Golyan, Nathan "Doe" and Faraidoon Daniel Golyan, M.D. (collectively, "defendants"), alleging violations of the Fair Debt Collection Act ("FDCA"), 15 U.S.C. §§ 1692, *et seq.*, and state law. On January 4, 2011, defendants filed an answer to the complaint and asserted a counterclaim against plaintiff to "sustain[] the debt" allegedly due and owing by plaintiff. By electronic order entered February 24, 2011, plaintiff's motion to strike defendants' answer and counterclaim without prejudice and for a more definite statement of defendants' counterclaim was referred to Magistrate Judge A. Kathleen Tomlinson for a report and recommendation in accordance with 28 U.S.C. § 636(b). Following an initial conference before Magistrate Judge Tomlinson on April 15, 2011, defendants served a first amended answer and counterclaims against plaintiff for breach of contract and unjust enrichment on April 26, 2011. By Report and Recommendation entered May 4, 2011 ("the Report"), Magistrate Judge Tomlinson recommended, *inter alia*, that plaintiff's

motion be granted and that defendants be permitted to file an amended answer and counterclaims in accordance with the Federal Rules of Civil Procedure.

By stipulation entered May 13, 2011, defendants agreed to withdraw their first amended answer and counterclaims and the parties agreed to extend defendants' time to file an amended answer and counterclaims in accordance with the Report. By order entered May 16, 2011, Magistrate Judge Tomlinson "so ordered" the parties' stipulation and directed defendants to file an amended answer and counterclaims within fourteen (14) days, i.e., on or before May 31, 2011.

No objections have been filed to the Report. For the reasons stated herein, the Report of Magistrate Judge Tomlinson is accepted in its entirety.

## I

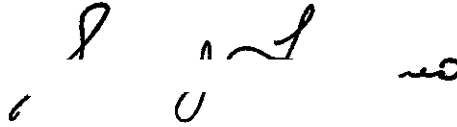
Rule 72 of the Federal Rules of Civil Procedure permits magistrate judges to conduct proceedings on dispositive pretrial matters without the consent of the parties. Fed. R. Civ. P. 72(b). Any portion of a report and recommendation on dispositive matters, to which a timely objection has been made, is reviewed *de novo*. 28 U.S.C. § 636(b)(1); Fed.R.Civ.P. 72(b). The court, however, is not required to review the factual findings or legal conclusions of the magistrate judge as to which no proper objections are interposed. See, Thomas v. Arn, 474 U.S. 140, 150, 106 S.Ct. 466, 88 L.Ed.2d 435 (1985). To accept the report and recommendation of a magistrate judge to which no timely objection has been made, the district judge need only be satisfied that there is no clear error apparent on the face of the record. See Fed. R. Civ. P. 72(b); Johnson v. Goord, 487 F.Supp.2d 377, 379 (S.D.N.Y. 2007), aff'd, 305 Fed. Appx. 815 (2d Cir. Jan. 1, 2009); Baptichon v. Nevada State Bank, 304 F.Supp.2d 451, 453 (E.D.N.Y. 2004), aff'd,

125 Fed.Appx. 374 (2d Cir. 2005). Whether or not proper objections have been filed, the district judge may, after review, accept, reject, or modify any of the magistrate judge's findings or recommendations. 28 U.S.C. § 636(b)(1); Fed.R.Civ.P. 72(b).

## II

No party has filed any objections to Magistrate Judge Tomlinson's Report. Upon review, the Court is satisfied that the Report is not facially erroneous. Accordingly, the Court accepts Magistrate Judge Tomlinson's Report as an Order of the Court. Defendants must file an amended answer and counterclaim in accordance with the Report and Magistrate Judge Tomlinson's May 16, 2011 order on or before May 31, 2011, unless otherwise ordered by the Court.

SO ORDERED.



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SANDRA J. FEUERSTEIN  
United States District Judge

Dated: May 27, 2011  
Central Islip, New York